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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
CIRCLE CITY WATER COMPANY, L.L.C. FOR
APPROVAL TO DELETE PORTIONS OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY AND TO DELETE A REQUIREMENT
SET FORTH IN DECISION NO. 68246.

DOCKET NO. W-03510A-13-0397

PROCEDURAL ORDER**BY THE COMMISSION:**

On November 19, 2013, Circle City Water Company, L.L.C. (“Circle City” or “Company”) filed with the Arizona Corporation Commission (“Commission”) an application requesting approval to delete portions of its Certificate of Convenience and Necessity (“CC&N”) and to delete the requirement, adopted in Decision No. 68246 (October 25, 2005), for Circle City to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Circle City’s application requests deletion of portions of its CC&N encompassing two developments known as Lake Pleasant 5000 and Warrick 160 (“Warrick”). Circle City’s application states that the developments are not viable and that service in the CC&N area will not be necessary in the foreseeable future.

On December 11, 2013, Lake Pleasant 5000, L.L.C. (“LP5K”) filed an Application for Leave to Intervene, stating that its development partners own the property Circle City wishes to delete from its CC&N and that LP5K has entered into a Water Facilities Agreement (“WFA”) with Circle City under which LP5K has paid \$67,782.61 to Circle City.

On December 31, 2013, by Procedural Order, intervention was granted to LP5K.

On January 9, 2014, Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 (“MRT”), filed an Application for Leave to Intervene, stating that MRT is the property owner of Warrick and that MRT’s development partners entered into a WFA with Circle City

1 under which \$67,782.61 was paid to Circle City.

2 On March 12, 2014, by Procedural Order, intervention was granted to MRT.

3 On October 17, 2014, the Commission's Utilities Division ("Staff") filed a Staff Report,
4 recommending denial of the Company's application to delete portions of its CC&N, but recommending
5 approval of the Company's request to remove the "positive impact" requirement as set forth in Decision
6 No. 68246.

7 On December 10, 2014, by Procedural Order the hearing in this matter was scheduled to
8 commence on March 2, 2015; the Company was directed to mail and publish notice of the application
9 by January 2, 2015; and other procedural deadlines were established.

10 On January 13, 2015, by Procedural Order, the procedural schedule in this matter was
11 suspended; the hearing scheduled to begin on March 2, 2015, was to be held for hearing public
12 comments only; it was noted that it was unclear whether Circle City had provided notice in accordance
13 with the December 10, 2014 Procedural Order; and the parties were directed to make a joint filing
14 notifying the Commission on the status of the settlement discussion on or before February 17, 2015.

15 On February 23, 2015, Circle City filed a Request to Modify Procedural Order to Reschedule
16 Public Comment Session stating that the Company had failed to properly provide notice in accordance
17 with the December 10, 2014, Procedural Order, and that additional time was needed to provide notice.

18 On March 2, 2015, the public comment hearing was held as scheduled. LP5K, MRT, and Staff
19 appeared through counsel. Circle City did not appear for the hearing. No members of the public were
20 present to give comments on the application. The parties provided an update on the on-going settlement
21 negotiations and a deadline was set for March 27, 2015, for the parties to file an additional update with
22 the Commission.

23 On October 16, 2015, a full public hearing was convened as scheduled, with Staff, LP5K, and
24 MRT appearing through counsel. Mr. Robert Hardcastle appeared on behalf of the Company. No
25 members of the public appeared to give public comments on the application. During the hearing,
26 various pending motions were discussed and resolved. The parties presented testimony and evidence.
27 At the conclusion of the hearing, it was decided that the matter should be set for an additional day of
28 hearing. A second day of hearing was scheduled to commence on November 23, 2015.

1 On November 23, 2015, the hearing in the matter reconvened as scheduled. Staff, LP5K and
2 MRT appeared through counsel. Mr. Hardcastle appeared on behalf of the Company. No members of
3 the public appeared to give comments on the application. The parties and Staff presented testimony
4 and evidence related to the application.

5 On March 29, 2016, a telephonic procedural conference was held. Staff, LP5K, and MRT
6 appeared through counsel. Mr. Hardcastle appeared on behalf of Circle City. Discussions were held
7 regarding the Company's compliance with the December 10, 2014, Procedural Order related to notice
8 and publication of the application. The Company stated that it had failed to provide notice in
9 accordance with the Procedural Order. Staff was directed to update the Commission on the Company's
10 compliance with Commission, Arizona Department of Water Resources ("ADWR") and Maricopa
11 County Environmental Services Department ("MCESD") requirements and, if necessary, include any
12 additional or amended recommendations.

13 Because the Company has failed to provide notice in accordance with the December 10, 2014
14 Procedural Order, it is appropriate to require the Company to provide public notice of the application.
15 Further, it is appropriate for Staff to provide an updated status report related to the Company's
16 compliance with Commission, ADWR, and MCESD requirements and, if necessary, include any
17 additional or amended recommendations.

18 IT IS THEREFORE ORDERED that Circle City shall **provide public notice of the application**
19 in this matter, in the following form and style, with the heading in no less than 10-point bold type and
20 the body in no less than 8-point regular type:

21 **PUBLIC NOTICE OF THE HEARING ON THE APPLICATION**
22 **OF CIRCLE CITY WATER COMPANY, L.L.C. FOR APPROVAL TO**
23 **DELETE PORTIONS OF ITS CERTIFICATE OF CONVENIENCE AND**
24 **NECESSITY AND TO DELETE A REQUIREMENT SET FORTH IN**
DECISION NO. 68246
(DOCKET NO. W-03510A-13-0397)

25 On November 19, 2013, Circle City Water Company, L.L.C. ("Circle City") filed with
26 the Arizona Corporation Commission ("Commission") an application requesting
27 approval to delete portions of its Certificate of Convenience and Necessity ("CC&N")
28 and to delete the requirement for Circle City in its next rate case filing to demonstrate
that its existing customers have been positively impacted by the addition of new water
facilities necessary to serve the extension area, pursuant to Decision No. 68246 (October

25, 2005). Circle City's application requests deletion of portions of its CC&N encompassing two developments known as Lake Pleasant 5000 and Warrick 160. Circle City's application states that the developments are not viable and that service in the CC&N area will not be necessary in the foreseeable future. The Commission's Utilities Division Staff ("Staff") recommends denial of the Company's application for deletion of portions of its CC&N, but recommends approval of the Company's request to eliminate the "positive impact" requirement contained in Decision No. 68246. On October 16, 2015, and on November 23, 2015, the Commission held evidentiary hearings on Circle City's application. Subsequent to the hearing, the Commission determined that Circle City had failed to provide public notice of the application. Therefore, the Commission has directed the Company to publish this notice to allow interested parties time to file comments on the application and/or to request intervention in this matter. The Commission will issue a Decision regarding the Company's application following consideration of the testimony and evidence presented by the parties. Copies of the application, Staff Report, and any written objections to the Staff Report filed by the Company are available at Circle City's offices [insert addresses]; at the Commission's Docket Control Center at 1200 West Washington Street, Phoenix, Arizona; and on the internet via the Commission website (www.azcc.gov) using the e-Docket function.

Interested parties may file written public comments by mailing a letter referencing Docket No. W-03510A-13-0397 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting comments on the Commission's website (www.azcc.gov) using the "Submit a Public Comment for a Utility" function. If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission and you must send copies of the motion to Circle City or its counsel and to all parties of record in the case. Your motion to intervene must contain the following:

1. Your name, address, and telephone number and the name, address, and telephone number of any person upon whom service of documents is to be made if different from yours;
2. A short statement of your interest in the proceeding (e.g., a customer or potential customer of Circle City, a member or shareholder of Circle City, etc.);
3. A statement certifying that a copy of the motion to intervene has been mailed to Circle City or its counsel and to all parties of record in the case; and
4. If the proposed intervenor is not represented by an attorney who is an active member of the Arizona State Bar, and is not an individual representing himself or herself, information and any appropriate documentation demonstrating the intervenor's compliance with Arizona Supreme Court Rules 31, 38, 39 and 42, as applicable.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before April 29, 2016. More information about requesting intervention is available at the Commission's website using the "Intervention in Utility Cases" function.

1 The granting of intervention, among other things, entitles a party to present sworn
2 evidence at hearing and to cross-examine other witnesses. However, failure to intervene
3 will not preclude any interested person or entity from appearing at the hearing and
4 providing public comment on the application or from filing written comments in the
5 record of the case.

6 The Commission does not discriminate on the basis of disability in admission to its
7 public meetings. Persons with a disability may request a reasonable accommodation
8 such as a sign language interpreter, as well as request this document in an alternative
9 format, by contacting the ADA Coordinator Shaylin Bernal, e-mail sabernal@azcc.gov,
10 voice phone number 602-542-3931. Requests should be made as early as possible to
11 allow time to arrange the accommodation.

12 IT IS FURTHER ORDERED that **Circle City shall send via First Class U.S. Mail a copy of**
13 **the above notice to each of its customers and to all land/property owners within the CC&N area**
14 **where Circle City is requesting deletion, and shall cause the above notice to be published at least**
15 **once in a newspaper(s) of general circulation in its service territory, with publication and mailing to be**
16 **completed no later than April 15, 2016.**

17 IT IS FURTHER ORDERED that **Circle City shall file certification of mailing and**
18 **publication as soon as practicable after mailing/publication has been completed, but no later than**
19 **May 6, 2016.**

20 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,
21 except that all motions to intervene must be filed **on or before April 29, 2016.**

22 IT IS FURTHER ORDERED that any **objections to motions to intervene** shall be filed **on or**
23 **before May 6, 2016.**

24 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication,
25 notwithstanding the failure of an individual customer to read or receive the notice.

26 IT IS FURTHER ORDERED that **Staff shall file, on or before April 29, 2016,** an update
27 related to Circle City's compliance with Commission, ADWR, and MCESD requirements and, if
28 necessary, include any additional or amended Staff recommendations.

IT IS FURTHER ORDERED that the **timeclock** in this matter remains **suspended.**

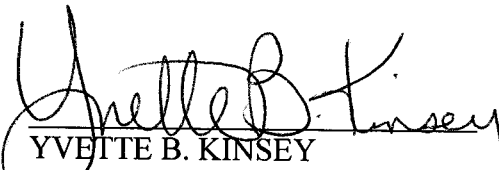
IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
in this matter is final and non-appealable.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 4th day of April, 2016.


YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered/emailed this 4th day of April, 2016 to

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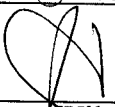
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